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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1072

[Docket No. CFPB-2012—0025]

Enforcement of Nondiscrimination on the Basis of Disability in Programs and Activities Conducted by the Bureau of Consumer Financial Protection

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Interim final rule with request for public comment.

SUMMARY: This interim final rule provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability in programs or activities conducted by the Bureau of Consumer Financial Protection. It sets forth standards for what constitutes discrimination on the basis of mental or physical disability, provides a definition for “individual with a disability” and “qualified individual with a disability,” and establishes a complaint mechanism for resolving allegations of discrimination. The rule further clarifies that the complaint mechanism is also available for processing complaints that the agency has failed to meet accessibility standards for electronic and information technology, in violation of section 508 of the Rehabilitation Act of 1973.

DATES: This interim final rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Written comments must be submitted by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2012-0025, by any of the following methods:

- **Electronic:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail or Hand Delivery/Courier:** Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street, NW, Washington, DC 200552.

Instructions: All submissions must include the agency name and docket number for this rulemaking. In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street, NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435-7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or social security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street, NW, Washington, DC 20552 at 202-435-7275.

SUPPLEMENTARY INFORMATION:

I. Background

On July 21, 2010, the President signed into law the Dodd–Frank Wall Street

Reform and Consumer Protection Act (Pub. L. 111-203). Title X of that law is the Consumer Financial Protection Act of 2010 (the “Act”), which created the Bureau of Consumer Financial Protection (the “Bureau”). Pursuant to the provisions of the Act, the Bureau began to exercise its authorities to regulate the offering and provision of consumer financial products and services under the federal consumer financial laws on July 21, 2011.

II. Summary of Interim Final Rule

This interim final rule establishes procedures for the Bureau that are necessary to implement section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, § 119 (Pub. L. 95-602, 92 Stat. 2982), the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810), the Workforce Investment Act of 1998 (Pub. L. 105-220, 112 Stat. 936), and the Americans with Disabilities Act Amendments of 2008 (Pub. L. 110-325, 122 Stat. 3553). It is an adaptation of the model rule prepared by the Department of Justice in 1980 under Executive Order 12250, 45 FR 72995, 3 CFR, 1980 Comp., p. 298.

The Bureau invites public comment on all aspects of this interim final rule and will take those comments into account before publishing a final rule.

Section-by-Section Analysis

Section 1072.101 Purpose

Section 1072.101 states that the purpose of the rule is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to

prohibit discrimination on the basis of disability in programs or activities conducted by Executive agencies or the United States Postal Service.

Section 1072.102 Application

The regulation applies to all programs or activities conducted by the Bureau.

Section 1072.103 Definitions

Section 1072.103 defines terms that are utilized elsewhere in the rule. Several of these terms warrant brief discussion. The Bureau has modified the language of the Department of Justice model to replace the terms “handicap,” “individual with a handicap,” and “individuals with handicaps” with the terms “disability,” “individual with a disability,” and “individuals with disabilities,” respectively, in keeping with the most current statutory terms used in the Americans with Disabilities Act. 42 U.S.C. 12101, et seq. The Bureau has modified the characterization of “major life activities” in the definition of “individual with a disability” to reflect the guidance provided by EEOC in its 2011 regulations interpreting the Americans with Disabilities Act Amendments Act of 2008. We intend our definition of the term “major life activities” to be interpreted consistent with that guidance. Similarly, the evaluation of whether an identified disability “substantially limits” an individual’s major life activities is not intended to be restrictive in nature and, with the exception of vision-correcting tools (eyeglasses and contact lenses), is to be made without regard to whether an individual has taken ameliorative measures. For example, an individual with bipolar disorder is within the definition of “individual with a disability” even if medication balances the individual’s mood. Conditions that may be episodic, such as major depression, or subject to remission, such as cancer, will be evaluated as if they were active.

The Bureau has also modified the language of the Department of Justice model to replace the outdated term “mental retardation” with “intellectual disability.” The definition of “auxiliary aids” has been modified to reflect technological developments that have rendered obsolete some forms of communication common in 1984 through the use of new technologies available to the public.

Section 1072.104 Self-Evaluation

This section commits the Bureau to conduct a self-evaluation of its compliance with section 504 within two years of the effective date of this regulation. This provision comports with the Department of Justice guidance. The Bureau recognizes the value of a self-evaluation process to obtain meaningful feedback from the community affected by this regulation and to promote effective and efficient implementation of section 504.

Section 1072.105 Notice

This section commits the Bureau to make available to employees, applicants, participants, beneficiaries, and other interested persons sufficient information about Bureau programs and activities, and to apprise them of rights and protections afforded by section 504 and this regulation. The language of the section follows that of the Department of Justice model.

Section 1072.106 General Prohibitions against Discrimination

This section is an adaptation of the corresponding section of the Department of Justice model.

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in the section establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the

analytical foundation for the remaining sections of the regulation.

Paragraph (b) prohibits overt denials of equal treatment of individuals with disabilities. The Bureau may not refuse to provide an individual with a disability an opportunity to participate in or benefit from its programs on the basis of that disability. The determination, rather, must always be whether the individual, with or without a reasonable accommodation, has the actual ability to participate or benefit. Paragraph (b)(1)(iii) requires that the opportunity to participate or benefit afforded to an individual with a disability be as effective as the opportunity afforded to others – that is, that facilities be accessible to those with physical disabilities, and that assistive accommodations be available to those who may require such accommodations to access communications from the Bureau.

Paragraph (b)(1)(iv) prohibits the Bureau from denying a qualified individual with a disability the opportunity to participate as a member of a planning or advisory board. Paragraphs (b)(2) through (b)(6) generally comport with the Department of Justice model language, except to the extent that they refer to “individuals with disabilities” rather than “individuals with handicaps.” These paragraphs collectively prohibit any Bureau policy or practice that would have the effect of unlawfully discriminating against individuals with disabilities, whether any such policy or practice is overtly exclusionary or, although neutral on its face, results in denying an effective opportunity for participation in a Bureau program or benefit to individuals with disabilities. Pursuant to these paragraphs, the Bureau must evaluate whether criteria or methods of administration may result in denial of opportunity to individuals with disabilities (paragraph (b)(4)), selection of facilities for use by the Bureau ensures accessibility for individuals with disabilities

(paragraph (b)(5)), criteria for selection of procurement contractors may result in denial of opportunity to individuals with disabilities (paragraph (b)(6)), and licensing and certification procedures are neutrally applied to individuals with disabilities (paragraph (b)(7)).

Paragraph (b)(8) clarifies that section 504 does not extend to the programs or activities of licensees or certified entities, which are not themselves federally conducted programs or activities.

Paragraph (c) permits the Bureau to limit participation in programs designed to benefit individuals with disabilities or a given class of individuals with disabilities to those individuals or classes of individuals.

Paragraph (d) provides the Bureau will administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities – that is, in a setting in which individuals with disabilities will be interacting with individuals who have not self-identified as having disabilities.

Section 1072.107 Employment

This section prohibits unlawful discrimination on the basis of disability in employment by the Bureau. The section clarifies that the definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 apply to employment in federally conducted programs or activities.

Section 1072.108 Program accessibility: Discrimination Prohibited

Section 1072.108 states the general nondiscrimination principle underlying the program accessibility requirements of the following two sections.

Section 1072.109 Program Accessibility: Existing Facilities

This section requires that each Bureau program or activity, when viewed in its entirety, be accessible to and usable by individuals with disabilities. The section does not require, however, that the Bureau make each existing facility in which it operates programs or activities accessible to and usable by individuals with disabilities, as long as program accessibility can be achieved through other means. Paragraph (a)(2) provides that in meeting the program accessibility requirement the Bureau is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or that would result in undue financial and administrative burden. The paragraph states the burden of proving that compliance with accessibility requirements would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the Bureau. A decision that compliance would result in such alteration or burdens must be made by the Bureau head or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she has been injured by the Bureau head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 1072.112.

Paragraph (b) sets forth methods by which program accessibility may be achieved, which include delivering services at alternate accessible sites or making home visits. The paragraph reiterates the Bureau's commitment to give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.

Paragraph (c) establishes the time period for complying with the program accessibility requirement. As a new federal entity occupying leased space, the Bureau is

obligated to evaluate any prospective leased property to ensure that structural accessibility standards are satisfied. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within ninety days of the effective date of this regulation.

Section 1072.110 Program Accessibility: New construction and alterations

This section clarifies that the definitions, requirements, and standards of the Architectural Barriers Act, 42 U.S.C. 4151-4157, apply to all buildings or parts of buildings constructed or altered by or on behalf of the Bureau. Any such facilities must be readily accessible to and usable by individuals with disabilities.

Section 1072.111 Communications

This section obligates the Bureau to provide appropriate assistive accommodations to ensure that the Bureau can communicate effectively with all applicants, participants, personnel of other federal entities, and members of the public, including individuals with disabilities. Paragraph (a)(1)(i) states that the Bureau will consider providing auxiliary aids in accordance with the expressed preference of the individual requesting accommodation. Paragraph (a)(1)(ii) notes that the Bureau is not obligated to provide personally prescribed devices to individuals with disabilities.

Paragraph (b) states the Bureau will ensure that interested persons can obtain information about the existence and location of accessible services, activities, and facilities. Paragraph (c) commits the Bureau to provide signage utilizing the international symbol for accessibility informing individuals with disabilities of the location of accessible entrances to and routes within the Bureau's facilities.

Paragraph (d) clarifies that this section does not require the Bureau to take any

action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, and sets forth the procedures whereby the Bureau may establish that such conditions exist.

Section 1072.112 Compliance Procedures

Paragraph (a) of this section specifies that paragraphs (c) through (l) establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the Bureau will process employment complaints according to procedures established in existing regulations of the Equal Employment Opportunity Commission, 29 CFR part 1614, pursuant to section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791.

Paragraph (c) vests responsibility for the implementation and operation of this section in the Office of the Chief Human Capital Officer.

Paragraph (d)(1) is adapted from the compliance procedures of the Department of Justice's model regulation. This paragraph prevents third parties from filing generalized complaints where there has been no harm to a particular individual or individuals. The Bureau is required to accept and investigate all complete complaints, as defined in §1072.103.

Paragraph (e) states if the Bureau determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to an appropriate entity of the federal government. Paragraph (f) specifically requires the Bureau to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act was designed, constructed, or altered in a manner that

does not provide ready access to and use by individuals with disabilities.

Paragraph (g) requires the Bureau to prepare written findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice to the complainant of the right to appeal. Paragraph (i) provides for an internal appeal process within the Office of the Chief Human Capital Officer.

Paragraph (l) permits the Bureau either to delegate its investigative responsibilities under this section to another federal agency or to contract with a nongovernmental investigator. The Bureau may not delegate its responsibility to make a determination of compliance or noncompliance.

III. Procedural Requirements

The Bureau concludes this interim final rule constitutes a Bureau rule of organization, procedure, or practice that is exempt from notice and public comment pursuant to 5 U.S.C. 553(b).

In any event, the Bureau has also determined that good cause exists, pursuant to 5 U.S.C. 553(b), to publish these regulations as an interim final rule. It is important for the Bureau to establish additional procedures promptly to facilitate the Bureau's interactions with the public. The Bureau began exercising certain parts of its regulatory authority on July 21, 2011, as well as launching several consumer outreach initiatives. The Bureau's public website has been developed to meet accessibility standards and to comport with § 508. Failure to establish such procedures promptly risks impairing the ability of individuals with disabilities to access Bureau facilities, communications, programs, and activities, and to participate in the public outreach that the Bureau encourages. Furthermore, the Bureau has adapted Department of Justice guidance that has been

broadly implemented across the federal government. For all of these reasons, the Bureau concludes that notice and public comment are unnecessary for these regulations and that delay will be contrary to the public interest. For the same reasons, the Bureau has determined that this interim rule should be issued without a delayed effective date pursuant to 5 U.S.C. 553(d)(3).

Notwithstanding these conclusions, the Bureau invites public comment on this interim final rule.

Because no notice of proposed rulemaking is required, these regulations are not a “rule” as defined by the Regulatory Flexibility Act do not apply, 5 U.S.C. 601(2).

The regulations in this part do not contain any information collection requirement that requires the approval of OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 12 CFR Part 1072

Blind, Buildings, Civil Rights, Employment, Equal Employment Opportunity, Federal buildings and facilities, Government employees, Individuals with disabilities. Authority and Issuance

For the reasons set forth above, the Bureau amends Chapter X in Title 12 of the Code of Federal Regulations by adding a new part 1072 to read as follows:

CHAPTER X—BUREAU OF CONSUMER FINANCIAL PROTECTION

Part 1072 –ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES CONDUCTED BY THE BUREAU OF CONSUMER FINANCIAL PROTECTION

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Authority: 29 U.S.C. 794; 29 U.S.C. 794d.

§ 1072.101 Purpose.

(a) This part implements section 504 of the Rehabilitation Act of 1973, as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Sec. 119 (Pub. L. 95-602, 92 Stat. 2982), the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810), the Workforce Investment Act of 1998 (Pub. L. 105-220, 112 Stat. 936), and the Americans with Disabilities Act Amendments of 2008 (Pub. L. 110-325, 122 Stat. 3553), to prohibit discrimination on the basis of disability in programs or activities conducted by Executive agencies or the United States Postal Service.

(b) This part is also intended to implement section 508 of the Rehabilitation Act of 1973 as amended to ensure that employees and members of the public with disabilities have access to, and are able to use, electronic and information technology (EIT) to the same extent as individuals without disabilities, unless an undue burden would be imposed on the department or the Bureau. Specifically, this part clarifies that individuals with disabilities may utilize the complaint procedures established in section 504 to enforce rights guaranteed under section 508.

§ 1072.102 Application.

This part applies to all programs, activities, and electronic and information technology developed, procured, maintained, used, or conducted by the Bureau.

§ 1072.103 Definitions.

For purposes of this part

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Bureau. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TDD's), interpreters, Computer-aided real-time transcription (CART), captioning, note takers, written materials, and other similar services and devices.

Bureau means the Bureau of Consumer Financial Protection.

Complete complaint means a written statement or a complaint in audio, Braille, electronic, and/or video format, that contains the complainant's name and address, and describes the Bureau's alleged discriminatory action in sufficient detail to inform the Bureau of the nature and date of the alleged violation of section 504 or section 508. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints in audio, Braille, electronic, and/or video formats shall contain an affirmative identity statement of the individual, which for this purpose shall be considered to be functionally equivalent to a complaint's signature. Complaints filed on

behalf of classes of individuals with disabilities shall also identify (where possible) the alleged victims of discrimination.

Electronic and information technology means information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, world-wide web sites, multimedia, and office equipment such as copiers and fax machines. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation are not electronic and information technology.

Facility means all or any portion of a building, structure, equipment, road, walk, parking lot, rolling stock or other conveyance, or other real or personal property.

Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more of the individual's major life activities.

Is regarded as having an impairment means—

(1) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Bureau as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(3) Has none of the impairments defined in paragraph (1) of this definition but is treated by the Bureau as having such an impairment.

Individual with a disability means any person who has a physical or mental impairment that substantially limits one or more of the individual's major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

Major life activities includes without limitation --

(1) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

(2) The operation of major bodily functions of the immune system, special sense organs and skin, normal cell growth, and digestive genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

(3) In determining other examples of major life activities, the Bureau will follow the guidance provided by EEOC in its 2011 regulations interpreting the Americans with Disabilities Act Amendments Act of 2008.

Physical or mental impairment includes without limitation:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological;

musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine.

(2) Any mental or psychological disorder such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(3) Diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, drug addiction and alcoholism.

Program or Activity means any activity of the Bureau permitted or required by its enabling statutes, including but not limited to any proceeding, investigation, hearing, or meeting.

Qualified individual with a disability means:

(1) In reference to individuals other than employees of the Bureau --

(i) With respect to any Bureau program or activity under which an individual is required to perform services or to achieve a level of accomplishment, an individual with a disability who, with or without reasonable accommodations, meets the essential eligibility requirements for participation in the program or activity, and who can achieve the purpose of the program or activity without modifications in the program or activity that would result in a fundamental alteration in its nature; or

(ii) With respect to any other program or activity, an individual with a disability who, with or without reasonable modification to rules, policies, or practices that do not change the fundamental nature of the activity, or the provision of auxiliary aids, meets the

essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; or

(2) In reference to individuals employed by the Bureau, the definition of that term for purposes of employment contained in 29 CFR 1630.2(m), which is made applicable to this part by § 1072.101.

Section 504 means section 504 of the Rehabilitation Act of 1973 as amended. As used in this part, §504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

Section 508 means section 508 of the Rehabilitation Act of 1973 as amended.

§ 1072.104 Review of compliance.

(a) The Bureau shall, within two years of the promulgation of this regulation, review its current policies and practices in view of advances in relevant technology and achievability. Based on this review, the Bureau shall modify its practices and procedures to ensure that the Bureau's programs and activities are fully accessible.

(b) The Bureau shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the review process.

(c) The Bureau shall maintain on file and make available for public inspection until three years following the completion of the compliance review

(1) A description of areas examined and any problems identified; and

(2) A description of any modifications made.

§ 1072.105 Notice.

The Bureau shall make available to all Bureau employees, applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the programs or activities conducted by the Bureau in a manner that apprises them of the protections against discrimination provided by § 504 and this regulation.

§ 1072.106 General prohibitions against discrimination.

(a) No qualified individual with a disability in the United States, shall, on the basis of disability, be excluded from the participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Bureau.

(b) Discriminatory actions prohibited. (1) The Bureau, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of disability--

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not substantially equivalent to that afforded others;

(iii) Provide different or separate aid, benefits or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aid, benefits or services that are as effective as those provided to others;

(iv) Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for individuals with disabilities and for persons who are not so identified, but must afford individuals with disabilities a reasonable opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement in the most integrated setting appropriate to the individual's needs.

(3) Even if the Bureau is permitted, under paragraph (b)(1)(iv) of this section, to operate a separate or different program for individuals with disabilities or for any class of individuals with disabilities, to the extent reasonably feasible, the Bureau must permit any qualified individual with a disability who wishes to participate in the program that is not separate or different to do so.

(4) The Bureau may not, directly or through contractual or other arrangements, utilize criteria or methods of administration the purpose or effect of which would

(i) Subject qualified individuals with disabilities to unlawful discrimination on the basis of disability; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with disabilities.

(5) The Bureau may not, in determining the site or location of a facility, make selections the purpose or effect of which would--

(i) Exclude individuals with disabilities from, deny them the benefits of, or otherwise subject them to unlawful discrimination under any program or activity conducted by the Bureau; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with disabilities.

(6) The Bureau, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to unlawful discrimination on the basis of disability.

(7) The Bureau may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to unlawful discrimination on the basis of disability, nor may the Bureau establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to unlawful discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the Bureau are not, themselves, covered by this part.

(8) The Bureau shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the Bureau can demonstrate that making the modifications would fundamentally alter the nature of the program, service, or activity.

(c) The exclusion of persons who have not self-identified as having disabilities from the benefits of a program limited by federal statute or Executive order to individuals with disabilities or the exclusion of a specific class of individuals with disabilities from a

program limited by federal statute or Executive order to a different class of individuals with disabilities is not prohibited by this part.

(d) The Bureau shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

§ 1072.107 Employment.

No qualified individual with disability shall, on the basis of disability, be subjected to unlawful discrimination in employment under any program or activity conducted by the Bureau. The definitions, requirements and procedures of § 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791, as established by the Equal Employment Opportunity Commission in 29 CFR Parts 1614 and 1630, shall apply to employment in federally conducted programs or activities.

§ 1072.108 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 1072.109 no qualified individual with a disability shall, because the Bureau's facilities are inaccessible to or unusable by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the Bureau .

§ 1072.109 Program accessibility: Existing facilities.

(a) General. The Bureau shall operate each program or activity so that the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities. This paragraph does not require the Bureau

(1) To make structural alterations in each of its existing facilities in order to make

them accessible to and usable by individuals with disabilities where other methods are effective in achieving compliance with this section; or

(2) To take any action that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. If an action would result in such an alteration or such burdens, the Bureau shall take any other action that would not result in such an alteration or such burdens but would nevertheless to the extent reasonably feasible ensure that individuals with disabilities receive the benefits and services of the program or activity.

(b) Methods. The Bureau may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with disabilities. The Bureau , in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the Bureau shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.

(c) Time period for compliance. The Bureau shall comply with the obligations established under this section within ninety (90) days of the effective date of this part except that where structural changes in facilities are undertaken, such changes in facilities

are undertaken, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

§ 1072.110 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the Bureau shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with disabilities. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151-4157), as implemented in 41 CFR 101-19.600 through 101-19.607, apply to buildings covered by this section.

§ 1072.111 Communications.

(a) The Bureau shall take appropriate steps to effectively communicate with applicants, participants, personnel of other federal entities, and members of the public.

(1) The Bureau shall furnish appropriate auxiliary aids where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the Bureau.

(i) In determining what type of auxiliary aid is necessary, the Bureau shall give consideration to any reasonable request of the individual with a disability.

(ii) The Bureau need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature to applicants or participants in programs.

(2) Where the Bureau communicates with applicants and beneficiaries by telephone, the Bureau shall use a telecommunication device for deaf persons (TDD's) or equally effective telecommunication systems to communicate with persons with impaired hearing.

(b) The Bureau shall make available to interested persons, including persons with impaired vision or hearing, information as to the existence and location of accessible services, activities, and facilities.

(c) The Bureau shall post notices at a primary entrance to each of its inaccessible facilities, directing users to an accessible facility, or to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the Bureau to take any action that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

§ 1072.112. Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs and activities conducted by the Bureau and denial of access to electronic and information technology.

(b) The Bureau shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) All other complaints alleging violations of section 504 or section 508 may be sent to Labor and Employee Relations, Office of the Chief Human Capital Officer Consumer Financial Protection Bureau, 1700 G Street, N.W., Washington, D.C. 20052. The Office of the Chief Human Capital Officer shall be responsible for coordinating implementation of this section.

(d) Complaint-filing procedures. (1) Any person who believes that he or she has been subjected to discrimination prohibited by this part may by himself or herself or by his or her authorized representative file a complaint. Any person who believes that any specific class of persons has been subjected to discrimination prohibited by this part and who is a member of that class or the authorized representative of a member of that class may file a class complaint.

(2) The Bureau shall accept and investigate each timely filed, complete complaint over which it has jurisdiction.

(3) A complete complaint must be filed within 180 days of the alleged act of discrimination. A complaint submitted to the Bureau via first-class mail will be deemed to have been filed when postmarked. A complaint submitted to the Bureau via any other means of delivery will be deemed to have been filed when received by the Bureau. The Bureau may extend this time period for good cause.

(e) If the Bureau receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The Bureau shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), is not readily accessible to and usable by individuals with disabilities.

(g)(1) Within 180 days of the receipt of a timely filed, complete complaint over which it has jurisdiction, the Bureau shall notify the complainant of the results of the investigation in a letter containing:

- (i) Findings of fact and conclusions of law;
- (ii) A description of a remedy for each violation found; and
- (iii) A notice of the right to appeal.

(2) Bureau employees are required to cooperate in the investigation and attempted resolution of complaints. Employees who are required to participate in any investigation under this section shall do so as part of their official duties and during the course of regular duty hours.

(3) If a complaint is resolved informally, the terms of the agreement shall be reduced to writing and made part of the complaint file, with a copy of the agreement provided to the complainant. The written agreement shall describe the subject matter of the complaint and any corrective action to which the parties have agreed.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 30 days of receipt from the Bureau of the letter required by § 1072.112(g). The Bureau may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the Chief Human Capital Officer, who will issue the final agency decision which may include appropriate corrective action to be taken by the Bureau.

(j) The Bureau shall notify the complainant of the results of the appeal within 60 days of the receipt of the timely appeal. If the Bureau determines that it needs additional information from the complainant, it shall have 60 days from the date it received the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended for an individual case when the Chief Human Capital Officer determines there is good

cause, based on the particular circumstances of that case, for the extension.

(l) The Bureau may delegate its authority for conducting complaint investigations to other federal agencies or may contract with a nongovernment investigator to perform the investigation, but the authority for making the final determination may not be delegated to another entity.

Dated: June 18 , 2012.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

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